GREGORY F. MURPHY, M.D. 3RD DISTRICT, NORTH CAROLINA

COMMITTEE ON EDUCATION AND LABOR

COMMITTEE ON VETERANS' AFFAIRS

President

Congress of the United States House of Representatives

Washington, **BC** 20515-3303

June 9, 2022

Lawrence S. Bacow

Dear President Bacow,

Harvard University Massachusetts Hall Cambridge, MA 02138

Over the past several years, the Committee on Ways and Means has examined how colleges and universities use their endowments to further their charitable purpose. 1 Endowments and their investment earnings are tax exempt. Congress created that exemption to further the charitable purpose of better educating our nation's students. Such education should be affordable. When the effective spending rates of endowments are the same year-over-year² while market values and returns are at all-time highs, additional scrutiny is warranted. Congress has conducted oversight over college and university endowments in the past and those efforts eventually led to a tax on net investment income for certain endowments was included in the Tax Cuts and Jobs Act (TCJA).

Endowments are now sophisticated institutional investors with diversified portfolios, investing in fixed income, global public equities, and alternatives. According to the National Association of College and University Business Officers (NACUBO), in FY21 the average overall return for endowments was 30.6 percent.³ These large returns are at least partly due to large endowments' ability to diversify their portfolios and take on more risk than average investors. Diversification is a bedrock principle for all investors, from institutional to retail. However, diversification for endowments should not mean investing in entities that are deemed an unacceptable risk to national security.

Public reporting indicates that endowments have funded technology behind China's surveillance state.4 For example, endowments have indirectly invested in SenseTime and Megvii, two

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¹ The Rising Cost of Education and Tax Policy Before the Subcomm. on Oversight of the H. Comm. on Ways and Means, 114th Cong. (2015); Back to School: Review of Tax-Exempt College and University Endowments Before the Subcomm. on Oversight of the H. Comm. on Ways and Means, 114th Cong. (2016).

² The Nat'l Ass'n of Coll. And Univ. Bus. Officers, 2021 NACUBO-TIAA Study of Endowments (2022), available at https://www.nacubo.org/-/media/Nacubo/Documents/research/2021-NTSE-Public-Tables--Spending-Rates--FINAL-February-18-2022.ashx?la=en&hash=9EA9FAD3A46DCB351C939614EC574A41E3E0B00F

https://www.nacubo.org/Press-Releases/2022/Endowments-Post-Strong-Returns-During-the-Pandemic-But-See-Inflation-as-Emerging-Challenge

⁴ Ryan Mac, Rosalind Adams, Megha Rajagopalan, US Universities And Retirees Are Funding the Technology Behind China's Surveillance State, BUZZ FEED NEWS (June 5, 2019), https://www.buzzfeednews.com/article/ryanmac/us-money-funding-facial-recognition-sensetime-megvii

Chinese companies that produce technologies enabling the Chinese Communist Party (CCP) to identify and imprison Uyghur Muslims.⁵ In 2019 SenseTime and Megvii were added to the Entity List, which is maintained by the Bureau of Industry and Security (BIS) at the Department of Commerce.⁶ Given recent world events, the BIS has taken many new actions including adding more than 100 entities in Russia and Belarus to the Entity List.⁷

Because colleges and universities have an educational mission and receive the significant benefit of tax-exempt status, they have a moral obligation not to use their endowments to invest in companies that contribute to human rights violations and are detrimental to the national security of the United States. Endowments must not invest in entities that are supporting the imprisonment of Uyghur Muslims or aiding the Russian Federation's horrific invasion of Ukraine.

I hope that your Board of Trustees will examine your endowment's investments to ensure that you are not invested (indirectly or directly) in any of the adversarial entities that are on any of the following US Government (USG) Lists: Entity List, Military End User (MEU) List, Unverified List, or FCC Covered List. To assist my office in better understanding this area, I request your response to the questions below. Please respond to Luke Wallwork (luke.wallwork@mail.house.gov) in my office by June 23, 2022.

- 1. Is your endowment currently invested (indirectly or directly) in any entity on the following USG lists: Entity List, MEU List, Unverified List, or FCC Covered List ("USG Lists")?
- 2. Do any of your investment contracts contain language explicitly restricting investments in entities on the USG Lists?
- 3. What policies does your endowment have in place to ensure that it divests from entities that may be added to the USG Lists? Please describe or provide any such policies.
- 4. Has your endowment divested from any entities on the USG Lists in calendar year 2022? If so, why?

Sincerely,

Gregory F. Murphy, M.D. Member of Congress

⁵ *Id*.

⁶ https://www.federalregister.gov/documents/2019/10/09/2019-22210/addition-of-certain-entities-to-the-entity-list ⁷ U.S. Dep't of Commerce, Bureau of Indus. and Sec., Resources on Export Controls Implemented in Response to Russia's Invasion of Ukraine, (last visited May 12, 2022), *available at* https://bis.doc.gov/index.php/policy-guidance/country-guidance/russia-belarus